



The Scottish Parliament  
Pàrlamaid na h-Alba

## Justice Sub-Committee on Policing

Detective Chief Constable Will Kerr  
Police Scotland

By e-mail

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Dear DCC Kerr

### Digital device triage systems

Thank you for providing evidence to the Justice Sub-Committee on Policing on 9 May 2019 on Police Scotland's interim response to the Sub-Committee's report on the proposal to introduce the use of digital device triage systems (cyber kiosks) for use by frontline police officers.

During the evidence session you referred to Police Scotland's intention to establish an ethics panel to consider future ICT developments. You agreed to provide the Sub-Committee with details of the constitution of the panel, its terms of reference, and the timetable for its establishment. It would also be helpful if you could clarify whether the minutes of its meetings are to be published, and if so, where that information will be located.

The duration of the Sub-Committee meeting did not permit Members to cover all of the relevant areas relating to cyber kiosks and therefore it would be appreciated if you could provide information in writing on a number of issues.

Police Scotland provided the Sub-Committee with the opinion of Murdo MacLeod QC on the legal basis for the use of cyber kiosks. Could you please confirm the question that Police Scotland asked Mr MacLeod to consider and the documents that were provided to him?

Concerns were raised by stakeholders about the quality of the current law in this area, particularly as regards its certainty, accessibility and foreseeability. Could you please confirm whether Mr MacLeod was asked to address the concerns raised by stakeholders in their evidence to the Sub-Committee?

The legal opinion suggests that there is only a legal basis for searches without warrants prior to apprehension in “urgent cases”. Could you please confirm whether Police Scotland agree with this limitation on its power of search and provide details of what would constitute an “urgent” case?

The legal opinion also suggests that in the case of witnesses or complainers a warrant or consent would be needed to search a device. Could you please confirm whether Police Scotland agree with this limitation on its power of search?

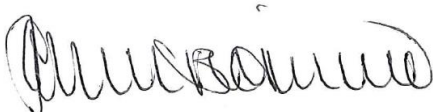
With regards to the new consent form that Police Scotland is developing, are you able to confirm whether relevant stakeholders will be asked to provide input to the content of the form, the timetable for completion, how the general public will be made aware of the new form, and what Police Scotland intend to do with the mobile phones of witnesses and victims in the meantime.

You indicated in the evidence session that the external reference group and the stakeholder group are to consider the impact assessments on 11 June. Would it be possible to provide the Sub-Committee with a copy of those assessments once they are finalised?

In your interim response to the Sub-Committee’s report you indicate that Police Scotland is to provide a more detailed response after it has had the opportunity to discuss the report further with the Scottish Police Authority. In your evidence you indicated Police Scotland’s intention to roll-out the cyber kiosks in late summer. The Sub-Committee would expect a full response by Police Scotland to all of the issues raised within its report for its consideration prior to any deployment of this new technology.

It would be helpful to receive the information requested by Wednesday 5 June. I appreciate that the final impact assessments may need to follow at a later date.

Yours sincerely

A handwritten signature in black ink, appearing to read 'John Finnie', written in a cursive style.

John Finnie MSP  
Convener, Justice Sub-Committee on Policing